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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,835	03/05/2005	Anders Hoglund	392.892USN	9986

33369 7590 07/30/2008
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EXAMINER	
KANERVO, VIRPI H	

ART UNIT	PAPER NUMBER
3691	

MAIL DATE	DELIVERY MODE
07/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/526,835	HOGLUND, ANDERS	
	Examiner	Art Unit	
	VIRPI H. KANERVO	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. § 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-7 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Based on Supreme Court precedent, a proper process must be tied to another statutory class or transform underlying subject matter to a different state or thing (*Diamond v. Diehr,* 450 U.S. 175, 184 (1981); *Parker* v. *Flook,* 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson,* 409 U.S. *63,* 70 (1972); *Cochrane* v. *Deener,* 94 U.S. 780,787-88 (1876)). Since neither of these requirements is met by the claim, the method is not considered a patent eligible process under 35 U.S.C. 101. To qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplished the method steps or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Claim 1 is independent claim, and it is directed to method that is not linked to another statutory class, *i.e.,* it is directed to non-statutory subject matter. Therefore, claim 1 is rejected as directed to non-statutory subject matter. Claims 2-7 all depend from claim 1. None of the dependent claims 2-7 correct the non-statutory subject matter in claim 1. Therefore, claims 2-7 are also rejected for being directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in § 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Raines (6,904,336 B2) in view of Lundgren (5,608,620) , further in view of McGill (2003/0101125 A1), and further in view of Hull (Hull, John C.: *Options, Futures, and Other Derivatives*, 3rd Ed., 1997).

As to claim 1, Raines shows determining a marginal cost (m1) for reducing one pollution unit of the pollutant (Raines: Fig. 7, Step 1; col. 3, lines 63-65);

determining a futures cost (n1) for one pollution unit of the pollutant (Raines: Fig. 7, Step 1); in a comparison unit, comparing the marginal cost (m1) with the futures cost (n1) (Raines: Fig. 7, Step 3); when the marginal cost (m1) is less than or the same as the futures cost (n1), invest in pollution reducing equipment to reduce pollution from a first quantity (x1) to a second quantity (x2), the difference between the first quantity (x1) and the second quantity (x2) being a delta quantity (d) (Raines: col. 7, lines 9-15); and determining a total cost (T1) by the delta quantity (d) multiplied by a difference between futures cost (n2) and futures cost (n1) (Raines: Fig. 7, Step 4).

Raines does not show adding the pollution fee (s1) to the delta quantity (d). Lundgren shows adding the pollution fee (s1) to the delta quantity (d) (Lundgren: col. 18, lines 10-14). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the method of Raines by adding the pollution fee (s1) to the delta quantity (d) of Lundgren in order to enabling the economy to achieve pollution reduction in the cheapest manner possible (Lundgren: col. 18, lines 19-20).

Raines in view of Lundgren does not show setting a pollution fee (s1) to be the same as the futures cost (n1) of the pollutant; and selling the delta quantity (d) of futures at futures cost (n1). McGill shows setting a pollution fee (s1) to be the same as the futures cost (n1) of the pollutant (McGill: page 3, ¶ 29); and selling the delta quantity (d) of futures at futures cost (n1) (McGill: page 3, ¶ 29). It would have been obvious to one of ordinary skill in the art at the time of the invention to

have modified the method of Raines in view of Lundgren by setting a pollution fee (s1) to be the same as the futures cost (n1) of the pollutant; and selling the delta quantity (d) of futures at futures cost (n1) of McGill in order to provide for speculating in the market with a small minimum trade size while still providing high leverage capabilities (McGill: page 3, ¶ 26).

Raines in view of Lundgren, and further in view of McGill, does not show changing futures cost from (n1) to (n2); and at a termination of futures contract term, buying back delta quantity (d) of futures at futures cost (n2). Hull shows changing futures cost from (n1) to (n2) (Hull: page 48, section "Short Selling"); and at a termination of futures contract term, buying back delta quantity (d) of futures at futures cost (n2) (Hull: page 48, section "Short Selling"). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the method of Raines in view of Lundgren, and further in view of McGill, by changing futures cost from (n1) to (n2); and at a termination of futures contract term, buying back delta quantity (d) of futures at futures cost (n2) of Hull in order to produce a profit (Hull: page 48, section "Short Selling").

As to claim 2, Raines in view of Lundgren, further in view of McGill, and further in view of Hull, shows all the elements of claim 1. Raines in view of McGill, and further in view of Hull, does not show that the method further comprises paying a pollution fee (s1) at a beginning of time period (t1). Lundgren shows that the method further comprises paying a pollution fee (s1) at a beginning of time period

(t1) (Lundgren: col. 18, lines 10-14). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the method of Raines in view of McGill, and further in view of Hull, by paying a pollution fee (s1) at a beginning of time period (t1) of Lundgren in order to enabling the economy to achieve pollution reduction in the cheapest manner possible (Lundgren: col. 18, lines 19-20).

As to claim 3, Raines in view of Lundgren, further in view of McGill, and further in view of Hull, shows all the elements of claim 2. Raines in view of Lundgren, further in view of McGill, and further in view of Hull, shows all the elements of claim 1. Raines in view of McGill, and further in view of Hull, does not show that the method further comprises paying a pollution fee (s2) at a beginning of time period (t2). Lundgren shows that the method further comprises paying a pollution fee (s2) at a beginning of time period (t2) (Lundgren: col. 18, lines 10-14). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the method of Raines in view of McGill, and further in view of Hull, paying a pollution fee (s2) at a beginning of time period (t2) of Lundgren in order to enabling the economy to achieve pollution reduction in the cheapest manner possible (Lundgren: col. 18, lines 19-20).

As to claim 4, Raines in view of Lundgren, further in view of McGill, and further in view of Hull, shows all the elements of claim 1. Raines in view of Lundgren, and further in view of Hull, does not show buying futures equivalent to the first pollution quantity (x1) at the futures cost (n1) when the marginal cost (m1) is greater than the futures cost (n1). McGill shows buying futures equivalent to the first pollution quantity (x1) at the futures cost (n1) when the marginal cost (m1) is greater than the futures cost (n1) (McGill: page 3, ¶ 29). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the method of Raines in view of Lundgren, and further in view of Hull, by buying futures equivalent to the first pollution quantity (x1) at the futures cost (n1) when the marginal cost (m1) is greater than the futures cost (n1) of McGill in order to provide for speculating in the market with a small minimum trade size while still providing high leverage capabilities (McGill: page 3, ¶ 26).

As to claim 5, Raines in view of Lundgren, further in view of McGill, and further in view of Hull, shows all the elements of claim 4. Raines in view of Lundgren, and further in view of McGill, does not show calculating a fee (s3) as the futures cost (n2) multiplied by the first quantity (x1) and paying the fee (s3) at the end of time period (t2). Hull shows calculating a fee (s3) as the futures cost (n2) multiplied by the first quantity (x1) and paying the fee (s3) at the end of time period (t2) (Hull: page 16, section "Trading Futures Contracts"). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the method

of Raines in view of Lundgren, and further in view of McGill, by calculating a fee (s3) as the futures cost (n2) multiplied by the first quantity (x1) and paying the fee (s3) at the end of time period (t2) of Hull in order to produce a profit (Hull: page 48, section "Short Selling").

As to claim 6, Raines in view of Lundgren, further in view of McGill, and further in view of Hull, shows all the elements of claim 5. Raines in view of Lundgren, and further in view of Hull, does not show that the method further comprises selling the first quantity (x1) of futures at the futures cost (n2). McGill shows that the method further comprises selling the first quantity (x1) of futures at the futures cost (n2) (McGill: page 3, ¶ 29). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the method of Raines in view of Lundgren, and further in view of Hull, by selling the first quantity (x1) of futures at the futures cost (n2) of McGill in order to provide for speculating in the market with a small minimum trade size while still providing high leverage capabilities (McGill: page 3, ¶ 26).

As to claim 7, Raines in view of Lundgren, further in view of McGill, and further in view of Hull, shows all the elements of claim 6. Raines also shows that the method further comprises determining a total cost (T2) by adding the fee (s1) and the fee (s3) and the quantity (x1) multiplied by the difference between the futures cost (n2) and the futures cost (n1) (Raines: Fig. 7, Step 4).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Laborde (4,588,192) discloses financial futures game.

Fleming (2003/0055665 A1) discloses mobile emission data collection, aggregation, and trading.

Fung (2004/0006529 A1) discloses method and system for utilizing a special purpose vehicle for improving the liquidity of transactions.

Mosler (6,304,858 B1) discloses method, system, and computer program product for trading internet swaps.

Pisani (7,401,042 B1) discloses method for profiling options.

Ramaswami (7,263,502 B1) discloses method and system for analyzing and predicting market winners and losers.

Shinbo (2004/0054616 A1) discloses method for selling and purchasing merchandise.

Shoestbergen (2002/0143693 A1) discloses method and system for banking and exchanging emission reduction credits.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VIRPI H. KANERVO whose telephone number is (571)272-9818. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m., EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Virpi H. Kanervo

/Alexander Kalinowski/

Supervisory Patent Examiner, Art Unit 3691